

## § 347.106

appropriate. Activities that will be engaged in as principal (defined by reference to section 362.1(b) of this chapter), and that are not authorized by 12 CFR 211.10 or FRB interpretations of activities authorized under that section, must satisfy the requirements of part 362 of this chapter and be approved by the FDIC under this part as well as part 362 of this chapter.

### § 347.106 Going concerns.

*Going concerns.* If a bank acquires an equity interest in a foreign organization that is a going concern, no more than 5 percent of either the consolidated assets or revenues of the foreign organization may be attributable to activities that are not permissible under § 347.105(b).

### § 347.107 Joint ventures.

(a) *Joint ventures.* If a bank, directly or indirectly, acquires or holds an equity interest in a foreign organization that is a joint venture, and the bank or its affiliates do not control the foreign organization, no more than 10 percent of either the consolidated assets or revenues of the foreign organization may be attributable to activities that are not permissible under § 347.105(b).

(b) *Joint venture defined.* For purposes of this section, the term “joint venture” means any organization in which 20 percent or more but not in excess of 50 percent of the voting equity interests, in the aggregate, are directly or indirectly held by a bank or its affiliates.

### § 347.108 Portfolio investments.

(a) *Portfolio investments.* If a bank, directly or indirectly, acquires or holds an equity interest in a foreign organization as a portfolio investment and the foreign organization is not controlled, directly or indirectly, by the bank or its affiliates:

(1) No more than 10 percent of either the consolidated assets or revenues of the foreign organization may be attributable to activities that are not permissible under § 347.105(b); and

(2) Any loans or extensions of credit made by the bank and its affiliates to the foreign organization must be on substantially the same terms, including interest rates and collateral, as

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those prevailing at the same time for comparable transactions between the bank or its affiliates and nonaffiliated organizations.

(b) *Portfolio investment defined.* For purposes of this section, the term “portfolio investment” means an investment in an organization in which less than 20 percent of the voting equity interests, in the aggregate, are directly or indirectly held by a bank or its affiliates.

### § 347.109 Limitations on indirect investments in nonfinancial foreign organizations.

(a) A bank may, through a subsidiary authorized by §§ 347.105 or 347.106, or an Edge corporation if also authorized by the FRB, acquire and hold equity interests in foreign organizations that are not foreign banks or foreign banking organizations and that engage generally in activities beyond those listed in § 347.105(b), subject to the following:

(1) The amount of the investment does not exceed 15 percent of the bank’s Tier 1 capital;

(2) The aggregate holding of voting equity interests of one foreign organization by the bank and its affiliates must be less than:

(i) 20 percent of the foreign organization’s voting equity interests; and

(ii) 40 percent of the foreign organization’s voting and nonvoting equity interests;

(b) The bank or its affiliates must not otherwise control the foreign organization; and

(c) Loans or extensions of credit made by the bank and its affiliates to the foreign organization must be on substantially the same terms, including interest rates and collateral, as those prevailing at the same time for comparable transactions between the bank or its affiliates and nonaffiliated organizations.

### § 347.110 Affiliate holdings.

References in §§ 347.107, 347.108, and 347.109 to equity interests of foreign organizations held by an affiliate of a bank include equity interests held in connection with an underwriting or for distribution or dealing by an affiliate permitted to do so by §§ 362.8 or 362.18 of this chapter or section 4(c)(8) of the

## Federal Deposit Insurance Corporation

## § 347.111

Bank Holding Company Act (12 U.S.C. 1843(c)(8)).

### **§ 347.111 Underwriting and dealing limits applicable to foreign organizations held by insured state non-member banks.**

A bank that holds an equity interest in one or more foreign organizations which underwrite, deal, or distribute equity securities outside the United States as authorized by § 347.105(b)(14) is subject to the following limitations:

(a) *Underwriting commitment limits.* (1) The aggregate underwriting commitments by the foreign organizations for the equity securities of a single entity, taken together with underwriting commitments by any affiliate of the bank under the authority of 12 CFR 211.10(b), may not exceed the lesser of \$60 million or 25 percent of the bank's Tier 1 capital, except as otherwise provided in this paragraph.

(2) Underwriting commitments in excess of this limit must be either:

- (i) Covered by binding commitments from subunderwriters or purchasers; or
- (ii) Deducted from the capital of the bank, with at least 50 percent of the deduction being taken from Tier 1 capital, with the bank remaining well capitalized after this deduction.

(b) *Distribution and dealing limits.* The equity securities of any single entity held for distribution or dealing by the foreign organizations, taken together with equity securities held for distribution or dealing by any affiliate of the bank under the authority of 12 CFR 211.10:

(1) May not exceed the lesser of \$30 million or 5 percent of the bank's Tier 1 capital, subject to the following:

- (i) Any equity securities acquired pursuant to any underwriting commitment extending up to 90 days after the payment date for the underwriting may be excluded from this limit;
- (ii) Any equity securities of the entity held under the authority of §§ 347.105 through 347.109 or 12 CFR 211.10 for purposes other than distribution or dealing must be included in this limit; and
- (iii) Up to 75 percent of the position in an equity security may be reduced by netting long and short positions in the same security, or offsetting cash positions against derivative instru-

ments referenced to the same security so long as the derivatives are part of a prudent hedging strategy; and

(2) Must be included in calculating the general consent limits under § 347.117(b)(3) if the bank relies on the general consent provisions as authority to acquire equity interests of the same foreign entity for investment or trading.

(c) *Additional distribution and dealing limits.* With the exception of equity securities acquired pursuant to any underwriting commitment extending up to 90 days after the payment date for the underwriting, equity securities of a single entity held for distribution or dealing by all affiliates of the bank (this includes shares held in connection with an underwriting or for distribution or dealing by an affiliate permitted to do so by §§ 362.8 or 362.18 of this chapter or section 4(c)(8) of the Bank Holding Company Act), combined with any equity interests held for investment or trading purposes by all affiliates of the bank, must conform to the limits of §§ 347.105 through 347.109.

(d) *Combined limits.* The aggregate of the following may not exceed 25 percent of the bank's Tier 1 capital:

(1) All equity interests of foreign organizations held for investment or trading under § 347.109 or by an affiliate of the bank under the corresponding paragraph of 12 CFR 211.10.

(2) All underwriting commitments under paragraph (a) of this section, taken together with all underwriting commitments by any affiliate of the bank under the authority of 12 CFR 211.10, after excluding the amount of any underwriting commitment:

(i) Covered by binding commitments from subunderwriters or purchasers under paragraph (a)(1) of this section or the comparable provision of 12 CFR 211.10; or

(ii) Already deducted from the bank's capital under paragraph (a)(2) of this section, or the appropriate affiliate's capital under the comparable provisions of 12 CFR 211.10; and

(3) All equity securities held for distribution or dealing under paragraph (b) of this section, taken together with all equity securities held for distribution or dealing by any affiliate of the bank under the authority of 12 CFR